

In the Matter Of:
KULAKOWSKI vs WESTROCK SERVICES

TRACIE DUNCAN

November 16, 2017



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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

MICHAEL KULAKOWSKI,)	
)	
Plaintiff,)	
)	
vs.)	CASE NO.
)	3:16-CV-02510
)	
WESTROCK SERVICES, INC.,)	
)	
Defendant.)	

DEPOSITION OF
TRACIE MICHELLE DUNCAN
Taken on Behalf of the Plaintiff
November 16, 2017
Commencing at 1:40 p.m.

Reported by: Jerri L. Porter, RPR, CRR
Tennessee LCR No. 335
Expires: 6/30/2018

<p>1 APPEARANCES: Page 2</p> <p>2 For the Plaintiff:</p> <p>3 HEATHER MOORE COLLINS</p> <p>4 Collins & Hunter</p> <p>5 7000 Executive Center Drive</p> <p>6 Building 2, Suite 320</p> <p>7 Brentwood, Tennessee 37027</p> <p>8 (615) 724-1996</p> <p>9 heather@collinshunter.com</p> <p>10</p> <p>11 For the Defendant:</p> <p>12 MARY DOHNER SMITH</p> <p>13 NELSON SUAREZ</p> <p>14 Constangy, Brooks, Smith & Prophete</p> <p>15 1010 SunTrust Plaza</p> <p>16 401 Commerce Street</p> <p>17 Nashville, Tennessee 37219</p> <p>18 (615) 320-5200</p> <p>19 mdohner@constangy.com</p> <p>20 nsuarez@constangy.com</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 The deposition of TRACIE MICHELLE Page 4</p> <p>2 DUNCAN was taken on behalf of the Plaintiff on</p> <p>3 November 16, 2017, in the offices of Bone,</p> <p>4 McAllester & Norton, 131 Saundersville Road, Suite</p> <p>5 130, Hendersonville, Tennessee, for all purposes</p> <p>6 under the Federal Rules of Civil Procedure.</p> <p>7 The formalities as to notice, caption,</p> <p>8 certificate, et cetera, are waived. All objections,</p> <p>9 except as to the form of the questions, are reserved</p> <p>10 to the hearing.</p> <p>11 It is agreed that Jerri L. Porter,</p> <p>12 being a Notary Public and Court Reporter for the</p> <p>13 State of Tennessee, may swear the witness, and that</p> <p>14 the reading and signing of the completed deposition</p> <p>15 by the witness are reserved.</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21 * * *</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p>1 I N D E X Page 3</p> <p>2 INDEX OF EXAMINATIONS</p> <p>3</p> <p>4 Examination By Ms. Collins5 Page</p> <p>5 Examination By Mr. Suarez16</p> <p>6</p> <p>7</p> <p>8 PREVIOUSLY MARKED EXHIBITS</p> <p>9 PRESENTED TO WITNESS</p> <p>10 Exhibit Description Page</p> <p>11 No. 14 8/29/16 Henley e-mail to McGraw12</p> <p>12 Subject: 2133-Interview</p> <p>13 Questions-8.26.16; 8/29/16 Henley</p> <p>14 e-mail to McGraw Subject: Interview</p> <p>15 with Tracie-August 29, 2016 Bates</p> <p>16 WestRock 000240-0241</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 TRACIE MICHELLE DUNCAN Page 5</p> <p>2 was called as a witness, and after having been first</p> <p>3 duly sworn, testified as follows:</p> <p>4 E X A M I N A T I O N</p> <p>5 BY MS. COLLINS:</p> <p>6 Q Good afternoon. Could you state your</p> <p>7 complete name for the record, please.</p> <p>8 A Tracie Michelle Duncan.</p> <p>9 Q Ms. Duncan, what is your address?</p> <p>10 A 435 Princeton Drive, Lebanon, Tennessee</p> <p>11 37087.</p> <p>12 Q Okay. Where do you currently work?</p> <p>13 A WestRock.</p> <p>14 Q How long have you worked out there?</p> <p>15 A Seventeen years.</p> <p>16 Q Are you at the Gallatin facility?</p> <p>17 A Fulfillment, yes.</p> <p>18 Q At the fulfillment?</p> <p>19 A Yes.</p> <p>20 Q Have your 17 years been at the fulfillment</p> <p>21 center?</p> <p>22 A Yes, ma'am.</p> <p>23 Q What do you do out at the fulfillment</p> <p>24 center?</p> <p>25 A I'm a quality auditor.</p>

<p style="text-align: right;">Page 6</p> <p>1 Q Is that a desk job or are you out in the 2 plant?</p> <p>3 A Both.</p> <p>4 Q Who is your supervisor?</p> <p>5 A Michael White. Sorry, I'm nervous.</p> <p>6 Q I was going to say, there's no need to be 7 nervous. I'm just going to ask you a few question.</p> <p>8 A Yeah.</p> <p>9 Q Have you ever had your deposition taken 10 before?</p> <p>11 A No. I was telling him, I had jury duty a 12 lot, but that's about it.</p> <p>13 Q All right. You worked out at the 14 fulfillment center when Mr. Whited was there, right?</p> <p>15 A Yes.</p> <p>16 Q Tommy Whited. And you've also worked with 17 Michael Kulakowski, right?</p> <p>18 A Yes.</p> <p>19 Q Have you ever seen Mr. Whited hit another 20 employee?</p> <p>21 A Yes.</p> <p>22 Q Okay. Tell me who you've seen him hit.</p> <p>23 A I've seen him like just playing around, you 24 know, not like fighting somebody.</p> <p>25 Q Sure. Who have you seen him hit?</p>	<p style="text-align: right;">Page 8</p> <p>1 employees in the groin?</p> <p>2 A No, ma'am.</p> <p>3 Q Who was HR out at the -- or for the 4 fulfillment center before Mr. Whited was terminated?</p> <p>5 A Helen Kendall.</p> <p>6 Q What sort of things did Helen handle?</p> <p>7 A Insurance and stuff.</p> <p>8 Q Would she come over to the fulfillment 9 center to handle things sometimes?</p> <p>10 A Yes, ma'am.</p> <p>11 Q Before Mr. Whited was terminated and before 12 the investigation about his termination, do you 13 recall receiving any training on sex harassment?</p> <p>14 A I don't remember.</p> <p>15 Q Do you recall talking with Terri Henley in 16 connection with the Whited investigation?</p> <p>17 A I do, yes.</p> <p>18 Q What is your understanding as to what her 19 job is?</p> <p>20 A She's over HR.</p> <p>21 Q Okay. Had you seen her out at the plants 22 before the Whited investigation?</p> <p>23 A No, ma'am.</p> <p>24 Q Did you ever hear Tommy Whited threaten an 25 employee's job?</p>
<p style="text-align: right;">Page 7</p> <p>1 A Michael Kulakowski.</p> <p>2 Q Have you seen him hit anyone else?</p> <p>3 A Yeah.</p> <p>4 Q Who?</p> <p>5 A I'm not sure. I mean, I've been there a 6 really long time.</p> <p>7 Q Okay.</p> <p>8 A That was kind of normal, I guess.</p> <p>9 Q Okay. Normal for Mr. Whited to hit other 10 people?</p> <p>11 A Well, I mean, they would do it back and 12 forth to one another.</p> <p>13 Q Did you ever see Tommy Whited kick another 14 employee?</p> <p>15 A No, ma'am.</p> <p>16 Q You never saw him kick Michael Kulakowski?</p> <p>17 A No, ma'am.</p> <p>18 Q When you say that you saw Mr. Whited hit 19 Michael Kulakowski, where on his body did he hit -- 20 did you see him hit him?</p> <p>21 A Like on the arm or something.</p> <p>22 Q Did you ever see him hit Michael Kulakowski 23 in the groin?</p> <p>24 A No, ma'am.</p> <p>25 Q Did you ever see Tommy Whited hit any other</p>	<p style="text-align: right;">Page 9</p> <p>1 A Not that I recall, no, ma'am.</p> <p>2 Q Did you ever hear Tommy Whited say anything 3 to employees like if they reported anything about 4 him that he would find out about it and fire them?</p> <p>5 A No, I didn't.</p> <p>6 Q Okay. Did you know that WestRock had a 7 hotline?</p> <p>8 A Yes.</p> <p>9 Q Okay. How did you know that?</p> <p>10 A It's posted.</p> <p>11 Q When did you come to find out about that?</p> <p>12 A Pretty much when all this stuff started 13 going on, I guess.</p> <p>14 Q Okay. Was that the first time it had come 15 to your attention that there was a hotline?</p> <p>16 A Well, I mean, I noticed that's whenever it 17 was posted.</p> <p>18 Q Oh, it was posted when all of this stuff 19 came up?</p> <p>20 A Yes.</p> <p>21 Q And when you say it was --</p> <p>22 A I mean, if it was posted somewhere else, I 23 just didn't see it.</p> <p>24 Q Okay.</p> <p>25 A That's what I'm saying.</p>

<p style="text-align: right;">Page 10</p> <p>1 Q But you noticed it was put up when all this 2 stuff came up?</p> <p>3 A Right. Something like that, I guess, yes.</p> <p>4 Q Now, if you had a problem at work at the 5 fulfillment center, who were you supposed to make a 6 complaint to before all the Whited stuff came up?</p> <p>7 A Michael, Michael White.</p> <p>8 Q Did you feel like he would address your 9 problems?</p> <p>10 A Yes.</p> <p>11 Q Did Mr. Whited ever hit or kick you in the 12 workplace?</p> <p>13 A Playing. I mean, yeah, he's kind of hey, 14 Ms. Duncan, how are you doing (indicating).</p> <p>15 Q You gestured to your shoulder?</p> <p>16 A Yes.</p> <p>17 Q Did he just tap your shoulder?</p> <p>18 A Yes. Just like in passing or something.</p> <p>19 Q But he never hit you in your groin area?</p> <p>20 A No.</p> <p>21 Q He never hit you hard enough that you were 22 offended by it?</p> <p>23 A No, ma'am.</p> <p>24 Q And he never kicked you in your groin area?</p> <p>25 A No, ma'am.</p>	<p style="text-align: right;">Page 12</p> <p>1 knowledge. I think she was just like a backup for 2 it.</p> <p>3 Q Okay. And Ms. Hart was at the fulfillment 4 center --</p> <p>5 A Yes, ma'am.</p> <p>6 Q -- full time?</p> <p>7 A Uh-huh.</p> <p>8 Q Could you turn in this book here to the last 9 exhibit. It's number -- well, no, it's actually 14. 10 Exhibit Number 14.</p> <p>11 (Presented Exhibit No. 14.)</p> <p>12 BY MS. COLLINS:</p> <p>13 Q If you could turn to the second page of this 14 document. It's got 241 down at the bottom. If you 15 could just review that to yourself and let me know 16 when you're done reviewing it. I just want to ask 17 you a few questions about that statement.</p> <p>18 A The first thing?</p> <p>19 Q This whole part right here (indicating).</p> <p>20 A All of it?</p> <p>21 Q Yes. Just let me know when you're done 22 reading through that.</p> <p>23 A Okay. (Reviewing document.) All right.</p> <p>24 Q Does this look like some of the information 25 that you gave Ms. Henley on August 29th?</p>
<p style="text-align: right;">Page 11</p> <p>1 Q Now, you recall Ms. Henley coming and 2 talking with you about Mr. Whited's behavior?</p> <p>3 A Yeah.</p> <p>4 Q What do you recall about that?</p> <p>5 A Oh, I mean, basically what we're talking 6 about.</p> <p>7 Q Okay. What did you -- do you recall what 8 you told her?</p> <p>9 A Honestly, I have no idea.</p> <p>10 Q Okay. That's okay. We'll go through some 11 of those notes.</p> <p>12 A Sorry.</p> <p>13 Q It's fine. How many times did you meet with 14 her?</p> <p>15 A I want to say twice.</p> <p>16 Q Okay.</p> <p>17 A But it could have been just once maybe.</p> <p>18 Q All right. Was it just her or was anyone 19 else present?</p> <p>20 A I believe it was just her.</p> <p>21 Q And when you said you thought Helen Kendall 22 was HR, y'all didn't have an on-site person at the 23 fulfillment center, right?</p> <p>24 A Well, if Helen was like on vacation, Susan 25 Hart. I mean, that's who we would go to, to my</p>	<p style="text-align: right;">Page 13</p> <p>1 A I mean, I guess it's possible.</p> <p>2 Q Okay.</p> <p>3 A I just don't remember.</p> <p>4 Q Do you recall telling her that you saw Tommy 5 Whited hit Mr. Kulakowski in the groin?</p> <p>6 A Honestly, I don't.</p> <p>7 Q Okay. You don't recall telling her that?</p> <p>8 A I mean, I'm not saying that she's lying. I 9 just don't recall. Like I said, I'm just -- I saw 10 them playing around before. I don't really remember 11 seeing him hit him in that area.</p> <p>12 Q Okay. And you don't recall telling 13 Ms. Henley that?</p> <p>14 A I mean, if she says I said it, I guess I 15 said it.</p> <p>16 Q Okay. It looks like she also asked you the 17 most recent time, and she has recorded that you said 18 on several occasions you saw the knee hit him as 19 well. Do you recall that?</p> <p>20 A It's possible.</p> <p>21 Q Did it seem like Mr. Kulakowski was afraid 22 of Mr. Whited?</p> <p>23 A No.</p> <p>24 Q How often were you around them?</p> <p>25 A Honestly, not very often. I kind of stood</p>

<p style="text-align: right;">Page 14</p> <p>1 clear of him.</p> <p>2 Q Stood clear of who?</p> <p>3 A Tommy. I mean I avoided him, pretty much,</p> <p>4 if I could.</p> <p>5 Q Why did you avoid him?</p> <p>6 A He was just intimidating a little bit. No</p> <p>7 other reason.</p> <p>8 Q I understand.</p> <p>9 A He makes me nervous.</p> <p>10 Q I understand. Did you ever report to Larry</p> <p>11 Eden any problems you had with Tommy or that he made</p> <p>12 you nervous --</p> <p>13 A No.</p> <p>14 Q -- or intimidated you?</p> <p>15 A No. Nothing like that. I just avoided him.</p> <p>16 Q Do you recall an incident where Mr. Whited</p> <p>17 came up to Mr. Kulakowski and grabbed him in the</p> <p>18 groin area?</p> <p>19 A Honestly, I don't.</p> <p>20 Q You just don't recall it?</p> <p>21 A I don't recall it, no.</p> <p>22 Q Okay. Do you recall an incident out at the</p> <p>23 picnic table where Mr. Whited came up to</p> <p>24 Mr. Kulakowski and kicked him?</p> <p>25 A No. I've never even seen Tommy out there.</p>	<p style="text-align: right;">Page 16</p> <p>1 about management to corporate that it could</p> <p>2 jeopardize your job?</p> <p>3 A No.</p> <p>4 Q Are you nervous about being here today?</p> <p>5 A Very.</p> <p>6 Q Have you bought any cars or appliances from</p> <p>7 Tommy Whited?</p> <p>8 A Oh, no.</p> <p>9 Q You don't owe him any money or anything?</p> <p>10 A No.</p> <p>11 Q Sorry, I have to ask.</p> <p>12 MS. COLLINS: All right. I think</p> <p>13 that's all I have with this witness.</p> <p>14 E X A M I N A T I O N</p> <p>15 BY MR. SUAREZ:</p> <p>16 Q Tracie, do you know Helen Kendall's actual</p> <p>17 job title?</p> <p>18 A HR.</p> <p>19 Q Do you know Susan Hart's actual job title?</p> <p>20 A No, I do not.</p> <p>21 Q Were you guessing when you responded to</p> <p>22 Helen Kendall's job title?</p> <p>23 MS. COLLINS: Objection to form.</p> <p>24 THE WITNESS: No.</p> <p>25</p>
<p style="text-align: right;">Page 15</p> <p>1 Q Have you ever filled out a survey or</p> <p>2 something like that out at the fulfillment center?</p> <p>3 A Yes.</p> <p>4 Q How often would you do that?</p> <p>5 A I don't know.</p> <p>6 Q Were they -- did you do those when</p> <p>7 Mr. Whited was still --</p> <p>8 A Yeah.</p> <p>9 Q -- out there?</p> <p>10 A Yes.</p> <p>11 Q Were they mandatory, these surveys?</p> <p>12 A No. I want to say it was every year.</p> <p>13 Q Okay. Do you recall if there was a place on</p> <p>14 the survey to complain about management?</p> <p>15 A I believe so.</p> <p>16 Q Did you ever make a complaint about Tommy</p> <p>17 Whited?</p> <p>18 A No.</p> <p>19 Q Were you afraid to make complaints about</p> <p>20 Tommy Whited?</p> <p>21 A No.</p> <p>22 Q Did you have a reason to make a complaint</p> <p>23 about Tommy Whited?</p> <p>24 A No.</p> <p>25 Q Were you fearful if you reported anything</p>	<p style="text-align: right;">Page 17</p> <p>1 BY MR. SUAREZ:</p> <p>2 Q Tracie, how big is the fulfillment plant?</p> <p>3 A It's not that big.</p> <p>4 Q How many people work there?</p> <p>5 A Seventy-five.</p> <p>6 Q Do you know every single time someone comes</p> <p>7 to visit?</p> <p>8 A No.</p> <p>9 Q Is it possible that Terri came to visit and</p> <p>10 you weren't aware she was there?</p> <p>11 MS. COLLINS: Objection to form.</p> <p>12 THE WITNESS: Yes.</p> <p>13 BY MR. SUAREZ:</p> <p>14 Q Tracie, do you know if you received a copy</p> <p>15 of the employee handbook?</p> <p>16 A Yes.</p> <p>17 Q And did you get a physical copy of the</p> <p>18 handbook?</p> <p>19 A Yes.</p> <p>20 Q Did you ever look through it?</p> <p>21 A Probably.</p> <p>22 Q If you needed to look through it, would you</p> <p>23 have done so?</p> <p>24 A Yes.</p> <p>25 Q Were you aware of a compliance hotline that</p>

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1 WestRock has?

2 A Yes.

3 Q Was that posted anywhere at work?

4 A By the time clock.

5 Q Do you recall if that was posted when Tommy

6 Whited worked at WestRock?

7 A I do not recall if it was or not.

8 Q Tracie, since you worked in the fulfillment

9 plant, were you around Michael Kulakowski on

10 occasion?

11 A Yes.

12 Q And have you talked with him on a personal

13 level?

14 A Yes.

15 Q Are you friends with him?

16 A I am.

17 Q Has he contacted you in the last month or

18 so?

19 A Yes.

20 Q Has he come by the fulfillment plant?

21 A Yes.

22 Q And did he talk to you then?

23 A Uh-huh. Yes.

24 Q What did he say to you?

25 A He just pretty much mentioned that he missed

Page 19

1 being there, of course, and he was venting, kind of.

2 Q What was he venting about?

3 A About Mary coming and Terry talking to them.

4 Q Terry talking to him? Which Terry?

5 A Terry Stafford.

6 Q Did he talk to you about this case?

7 A He just made a comment that he was a lying

8 motherfucker. Sorry.

9 MS. COLLINS: That who was lying?

10 THE WITNESS: Terry Stafford.

11 MS. COLLINS: Okay.

12 BY MR. SUAREZ:

13 Q Is this within the last month or so?

14 A I want to say, yeah, month,

15 month-and-a-half.

16 MR. SUAREZ: Can I have one moment to

17 talk to my colleague.

18 (Discussion off the record.)

19 MR. SUAREZ: That's all I have.

20 FURTHER DEPONENT SAITH NOT.

21 (Proceedings concluded at 2:00 p.m.)

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Page 20

1 REPORTER'S CERTIFICATE

2

3 I, Jerri L. Porter, RPR, CRR, Notary

4 Public and Court Reporter, do hereby certify that I

5 recorded to the best of my skill and ability by

6 machine shorthand all the proceedings in the

7 foregoing transcript, and that said transcript is a

8 true, accurate, and complete transcript to the best

9 of my ability.

10 I further certify that I am not an

11 attorney or counsel of any of the parties, nor a

12 relative or employee of any attorney or counsel


13 connected with the action, nor financially

14 interested in the action.

15 SIGNED this 28th day of November, 2017.

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21 Jerri L. Porter, RPR, CRR

22 My Notary commission expires: 2/19/2018

23 Tennessee LCR No. 335

24 Expires: 6/30/2018

25

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1 E R R A T A

2

3 I, TRACIE MICHELLE DUNCAN, having read the

4 foregoing deposition, Pages 1 through 19, taken

5 November 16, 2017, do hereby certify said

6 testimony is a true and accurate transcript,

7 with the following changes, if any:

8 PAGE LINE SHOULD HAVE BEEN

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